

REMARKS/ARGUMENTS

The Office Action mailed July 18, 2006, has been received and its contents carefully considered.

Claims 2-4, 6-19 and 22-25 were rejected under 35 U.S.C. 112, first paragraph. Without necessarily conceding the propriety of the rejection, Applicants have noted the Examiner's helpful comments, and in this regard has amended independent claims 7 and 25 to recite that the hinged adjustable lip is angled towards the back wall of the settler compartment (claim 7) or the compartment means (claim 25). It is believed that these and the other amendments made in the claims overcome the basis set forth in the office action for the rejection under section 112, first paragraph, and withdrawal of this rejection is respectfully requested.

Claim 22-25 were rejected as being unpatentable over Lynch in view of Wolde-Michael, further in view of Irion. Claims 2-4, 6-8 and 14-19 were rejected as being unpatentable over Lynch in view of Johnson, Wolde-Michael and Irion. Without conceding the propriety of these rejections, both independent claims have been amended and believed patentable for at least the following reasons.

The office action appears to concede that the primary reference to Lynch does not disclose the lip oriented at a downwardly extended angle and hingedly connected to the top edge of the partition, as recited in both independent claims. The office action is understood to rely on the abstract of Wolde-Michael, and column 1, lines 56-63 of Irion as suggesting these features.

However, it is respectfully submitted that the referenced portions of Wolde-Michael and Irion merely suggest that it would be desirable to achieve the benefits that are achieved by the structure positively recited in the claims. Yet, these references are not seen to teach or suggest the structure as is actually recited in amended independent claims 7 and 25. For example, claims 7 and 25 recite a top hinged end of the lip. Wolde-Michael is not understood to teach a hinged "baffle" as asserted in the office action, and the office action is not understood to suggest that Wolde-Michael teaches a hinged baffle.

Instead, the office action appears to be relying on Irion. However, the only item in Irion understood to be hinged is the partition 3 which is hinged at its bottom end by a length of piping 11. Thus, Irion is not seen to teach or suggest hinging or pivoting a downwardly oriented lip as recited in the present claims.

It is respectfully submitted that merely because these prior art references recognize a need in the art for improved performance, that this disclosure in the references - which explicitly teaches different structures from the presently claimed structure - cannot be said to teach or suggest the presently claimed invention.

New dependent claims 27-32 are also added by this amendment. Claims 27 and 28 recite that the settler compartment, or compartment means, have a liquid surface and that the lip has a free end terminating below the liquid surface. This feature finds support at least in paragraph [0032] of the present specification.

Claims 29 and 32 further recite that the lip has an airplane wing profile shape, a feature also supported at least by paragraph [0032] of the present application. Full and independent consideration of each of these dependent claims is respectfully requested.


Entry of this amendment after final rejection is respectfully requested. Though new claims are added, it is believed that through prosecution of the application to date the issues presented will not require undue time and consideration on the part of the Examiner.

In view of the foregoing, reconsideration and allowance of the application are believed in order, and such action is earnestly solicited. Should the Examiner believe that a telephone conference would be helpful in expediting prosecution of the application; the Examiner is invited to telephone the undersigned at 202-861-1696.

In the event this paper is not timely filed, Applicants petition for an appropriate extension of time. Please charge any fee deficiencies or credit any overpayments to Deposit Account No. 50-2036 with reference to Attorney Docket No. **87335.3820**.

Respectfully submitted,

BAKER & HOSTETLER LLP

A handwritten signature in black ink, appearing to read 'L. Jennings', is written over the printed name.

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